REMARKS

The Final Office Action dated April 6, 2005 contained a final rejection of claims 1-22. The Applicant has amended independent claims 1, 6, 12, 17, and 20. Claims 1-22 are in the case. Please consider the present amendment with the attached Request for Continued Examination (RCE) under 37 C.F.R. § 1.114. This amendment is in accordance with 37 C.F.R. § 1.114. Reexamination and reconsideration of the application, as amended, are requested.

Claims 1, 2, 5-7, 9, 12, and 14-16 were rejected under 35 U.S.C. § 102(e) as being anticipated by Rashkovskiy (U.S. Patent No. 6,616,533). Claims 3, 4 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rashkovskiy. Claims 10, 11, 13 and 17-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rashkovskiy in view of Anderson (U.S. Patent No. 6,532,039).

The Applicant respectfully traverses these rejections based on the amendments to the claims and the arguments below.

Specifically, with regard to the rejection under 35 U.S.C. § 102(e), the Applicant submits that Rashkovskiy do **not** disclose all of the claimed features. Namely, the Applicant's amended claims now include determining advertising content related to the informational content, muting the advertising content in the second layer, and updating the advertising content when changes occur to a profile of an Internet consumer.

In contrast, Rashkovskiy merely disclose a "...video game...associated with advertising such that when the player mouse clicks on an image element in the course of play of the game, the game play may automatically be paused..." Although Rashkovskiy disclose advertising content in the video game, the advertising content in Rashkovskiy is **not** predetermined to be related to the informational content and the advertising content is **not** muted in the second layer and is **not** updated when changes occur to a profile of an Internet consumer, like the Applicant's claimed invention. Since the newly added elements are not disclosed by Rashkovskiy, it cannot anticipate the claims, and hence, the Applicant submits that the rejection should be withdrawn.

With regard to the rejection under U.S.C. 103(a) of the rest of the claims, the Applicant submits that Rashkovskiy alone or in combination with Anderson do not

disclose, teach, or suggest all of the elements of the Applicant's above argued claimed invention. Namely, Anderson merely discloses digital image stamping while, as argued above, Rashkovskiy does **not** predetermine the advertising content to be related to the informational content. Moreover, Rashkovskiy does **not** mute the advertising content in the second layer. Next, Rashkovskiy does **not** update the advertising content when changes occur with a profile of an Internet consumer, like the Applicant's claimed invention.

In addition, Rashkovskiy **teaches away** from the Applicant's invention. This is because Rashkovskiy explicitly states that "[T]he image elements 112-120 may be user selected to purchase items ***unrelated*** to the play of the game...In addition, items that are utilized by image elements 14 in the course of the game may be clicked on to initiate a purchase. These items ***may not otherwise be directly related*** to the game." [*emphasis added*].

This unquestionably is a **teaching away** from the Applicant's claims, which includes determining advertising content **related** to the informational content and updating the advertising content when changes occur to a profile of an Internet consumer. The above argued sections of Rashkovskiy that "teach away" prevent this reference from being used by the Examiner. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

Consequently, since the claimed elements are not disclosed, taught or suggested by Rashkovskiy alone or in combination with Anderson, and because Rashkovskiy teaches away from the Applicant's invention, Rashkovskiy cannot render the claims obvious, which indicates a clear lack of a prima facie case of obviousness (*MPEP 2143*).

With regard to the rejection of the dependent claims, because they depend from the above-argued respective independent claims, and they contain additional limitations that are patentably distinguishable over the cited references, these claims are also considered to be patentable (MPEP § 2143.03).

Thus, it is respectfully requested that all of the claims be allowed based on the amendments and arguments. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Additionally, in an effort to further the prosecution of the subject application, the Applicant kindly invites the Examiner to telephone the Applicant's attorney at (818) 885-1575 if the Examiner has any questions or concerns. Please note that all correspondence should continue to be directed to:

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Respectfully submitted,
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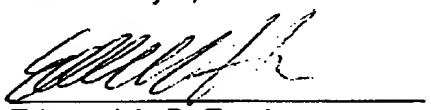

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